THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 22171 of 2001

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Dated 18.10.2005

Between:

M/s. Dharampal Satyapal Limited, Rep. by its Area Sales Manager,
Sri Krishna Kumar Gandham, 1711, S.P. Mukherjee Marg,
Delhi - 110 006.

..... PETITIONER

AND

1 State of Andhra Pradesh, Rep. by Principal Secretary, Revenue

Department, State Government of Andhra Pradesh,

Hyderabad and others

.....RESPONDENT(S)

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 22171 of 2001

Oral Order: (Per Sri BRSR,J)

The subject matter that arises for consideration in this writ petition is squarely covered by the authoritative pronouncement of the Supreme Court in ***GODFREY PHILLIPS INDIA LTD. AND ANOTHER Vs. STATE OF U.P. AND OTHERS*****.** Following the said judgment, the writ petition is allowed. It is accordingly declared that insertion of Gutka in item I (one) of the schedule to A.P. Tax on Luxuries Act,

1987 is arbitrary and unconstitutional.

However, the respondent State Government shall have the benefit of the following observations made in the said judgment.

> " It was stated on behalf of the State Governments that after obtaining interim orders from this Court against recovery of luxury tax, the appellants continued to charge such tax from consumers/customers. It is alleged that they did not pay such tax to respective State governments. It was, therefore, submitted that if the appellants are allowed to retain the amounts collected by them towards luxury tax from consumers, it would amount to "unjust enrichment" by them.
>
> In our opinion, the submission is well-founded and deserves to be upheld. If the appellants have collected any amount towards luxury tax from consumers/customers after obtaining interim orders from this Court, they will pay the said amounts to the respective State Governments."
>
> The writ petition is accordingly allowed. No costs.

(B.SUDERSHAN REDDY,J)

dated 18.10.2005

(S.ANANDA REDDY,J)

msv